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PTO/SB/01 (10-05)

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PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)		Docket Number (Optional) 42390.P12401
First Named Inventor: Hayduk, Mathew A.		Art Unit: 2127
Application Number: 10/017,047		Examiner: Ali, Syed J.
Filed: December 31, 2001		
Title: Computing System Capable of Reducing Power Consumption by Distributing Execution.....		
Attention: Office of Petitions Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450		
NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.		
The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.		
APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION. NOTE: A grantable petition requires the following items: (1) Petition fee. (2) Reply and/or issue fee. (3) Terminal disclaimer with disclaimer fee-required for all utility and plant applications filed before June 8, 1995, and for all design applications; and (4) Adequate showing of the cause of unavoidable delay.		
1. Petition fee <input type="checkbox"/> Small entity - fee \$ _____ (37 CFR 1.17(l)). Applicant claims small entity status. See 37 CFR 1.27. <input checked="" type="checkbox"/> Other than small entity - fee \$ 500 (37 CFR 1.17(l)).		
2. Reply and/or fee A The reply and/or fee to the above-noted Office action in the form of <u>Notice of Appeal</u> (Identify the type of reply): <input type="checkbox"/> has been filed previously on _____ <input checked="" type="checkbox"/> is enclosed herewith. B The issue fee of \$ _____ <input type="checkbox"/> has been filed previously on _____ <input type="checkbox"/> is enclosed herewith.		

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This collection of information is required by 37 CFR 1.137(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 8 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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P. 02/04

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PTO/SB/81 (10-05)

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNAVOIDABLY UNDER 37 CFR 1.137(a)****3. Terminal disclaimer with disclaimer fee**

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/83).

4. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Signature

Stuart A. Whittington
Typed or printed name

OC2-157, 4500 S. Dobson Road
Address

Chandler, AZ 85248
Address

5/1/2006
Date

45,215
Registration Number, if applicable

480-715-3895
Telephone Number

- Enclosure ☒ Fee Payment
- ☒ Reply
- ☐ Terminal Disclaimer Form
- ☐ Additional sheets containing statements establishing unavoidable delay
- ☐

CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))

I hereby certify that this correspondence is being:

- ☐ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

- ☒ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

5/1/2006

Date

Signature

STUART WHITTINGTON

Typed or printed name of person signing certificate

MAY 01 2006

PTO/88/61 (10-06)

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNAVOIDABLY UNDER 37 CFR 1.137(a)**

NOTE: The following showing of the cause of unavoidable delay must be signed by all applicants or by any other party who is presenting statements concerning the cause of delay.


Stuart A. Whittington

Typed or printed name

5/1/2006
Date45,215
Registration Number, if applicable

(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply.)

A Final Office Action on this application was mailed Aug. 1, 2005. Applicant timely responded to the Final Action on Nov. 1, 2005. After no indication of the status of the Application, Applicant's representative contacted Examiner Ali on Jan. 24, 2006 to determine the status of the application and identify what action to pursue in advance of the 6 month deadline expiring on Feb. 1, 2006. Examiner Ali indicated there had been a delay by the USPTO processing Applicant's response and he had not received it at the time of the call and due to this fact, his next communication would actually be mailed after after the 6 month date (February 1, 2006). Examiner Ali further indicated to Applicant's representative that because the delay was due to the USPTO, he would reset and/or extend the period for responding so that Applicant would have an opportunity to reply to the next official communication in an appropriate manner. Examiner Ali issued an Advisory Action on Feb. 14, 2006 without resetting or extending the period for which Applicant could respond.

On Mar. 1, 2006, Applicant again contacted Examiner Ali to inquire why period for reply was not reset or extended in the Advisory Action as indicated in the previous telephone call. Examiner Ali indicated that it was merely an oversight and that a new communication would be mailed giving Applicant appropriate time to respond.

The new communication was never mailed and on Mar. 22, 2006, Applicant called Supervisory Examiner Ming-Ai to inform the examiner of the situation. Examiner Ming-Ai indicated that Examiner Ali inadvertently misled Applicant's representative and that Examiner Ali had no authority or manner in which to reset or extend the period for reply, that the application was in fact abandoned because no proper response was filed by February 1, 2006, and that there was nothing Applicant could do but to petition to revive the application.

Applicant respectfully submits that the present application was unavoidably abandoned because (i) the USPTO incurred a 3 month delay in forwarding Applicant's after-final communication to Examiner Ali; (ii) Applicant was never made aware of the status of the Application after submission of its response filed Nov. 1, 2005 and prior to the 6 month deadline of Feb. 1, 2006 (even though good faith inquiry was made on Jan. 24, 2006); and (iii) Applicant's representative was improperly misled by the Examiner that it should refrain from filing anything before receiving the next USPTO communication and that the application would not go abandoned because the period for response would be reset. But for Applicant's good faith reliance on the Examiner's recommendations and verbal commitment to reset the period for reply, Applicant would have filed some type of response by Feb. 1, 2006 and this application would not be abandoned.

(Please attach additional sheets if additional space is needed.)

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